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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,546	02/05/2004	Yusuke Muraoka	P/4178-11	8939

2352 7590 02/22/2007  
OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER
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PATEL, RITA RAMESH

ART UNIT	PAPER NUMBER
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1746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/772,546	Applicant(s) MURAOKA ET AL.	
	Examiner Rita R. Patel	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/15/04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 13-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method claims, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/16/07.

### ***Priority***

Acknowledgement has been made of applicant's claim for priority under 35 U.S.C. 119. This application claims the priority of foreign Japanese document 2003-075556 filed 3/19/03.

### ***Drawings***

The drawings received 2/5/04 are acceptable for examination purposes.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Combs (US Patent No. 5,666,987).

Combs teaches a device for dispersing solid, powder, granular, tablet or liquid forms of beneficial chemical(s) into a pressurized liquid stream, distributing variable quantities over adjustable time in variable concentrations of dispersed chemical(s) through other ancillary connected equipment, permitting dispensing of the resultant fluid of pressurized beneficial chemical(s) for treatment of surfaces, such as that of living or growing matter. The device includes an upright, vertical cylindrical container and attachments are designed to withstand high fluid pressures (high-pressure fluid supply means) without rupture or leakage. The device is connected to other pipes attached to spraying nozzles, sprinklers, sprinkler systems, flexible loose hoses, or rigid pipes lying on the ground and further attached to sprayer devices such as hand-held nozzles, sprinklers, sprayers, or sprayers to be used manually, in semi-automatic or in fully automatic modes, to disperse chemical(s) (Abstract).

A useful pressurized fresh source liquid supply would be a municipal water line with a shut-off valve attached at threaded connector 1. Other liquid chemicals can be used as the fresh source liquid by attachment of threaded connector 1 to a supply tank and an associated chemical pump (pumping means) with appropriate discharge piping and a shut-off valve via appropriate hose or pipe adapters (col. 6, lines 59-67). A cylindrical screen 7 is seated in the container 8 and inlet valve 12, connected to nozzle 11, may be opened to allow pour-in funnel 13 to be inserted to fill liquid or solid

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beneficial chemical or chemicals 25 (chemical-agent supply means) into vessel 8A (dedicated tank) outside the screen 7 (col. 6, lines 35-39).

Upon opening product mixture outlet valve 24 (flow-rate control means: mixing valve assembly), a continuous pressurized flow of fresh source liquid will enter through fresh source liquid supply line 2, inlet fluid bypass tee 3, globe valve 4, intake valve 5, and check valve 5A, into fresh source inlet nozzle 6, into vessel 8A and through screen 7. Furthermore, the fresh source liquid will contact the beneficial chemicals within vessel 8A outside of screen 7, in a radial and up-flow axial-radial flow pattern and co-mix (blending means) the liquid chemical(s) (col. 7, lines 39-48).

Specifically, the vessel 8A of the container 8 may be connected to ancillary connected equipment 34, such as an instrument control (plural flow-rate control means for performing a feedback control) for dispersing liquid over areas of land (first and second surfaces). The settings of globe valve 4 and bypass valve 22, and the quantity of beneficial chemical to be so applied to a region of a landscape is controlled by the user (col. 10, lines 15-19 and 27-30). The apparatus of Combs is fully capable of performing a controlled first surface treatment and a second surface treatment in the required order as claimed by applicant. It is well settled that the intended use of a claimed apparatus is not germane to the issue of the patentability of the claimed structure. If the prior art structure is capable of performing the claimed use then it meets the claim. *In re Casey*, 152 USPQ 235, 238 (CCPA 1967); *In re Otto*, 136 USPA 459 (CPA 1963). The flow control system and control valves of Combs allow the user to select the specific spray functions and areas to be treated in accordance with what is

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desired by the user and thus read on applicant's claims for performing specific spray patterns.

Finally, Combs discloses that an appropriate quantity of chemical can be added (replenishment means) by the user of the invention for proper treatment of the required surface, according to the beneficial purpose intended (col. 6, lines 49-52). Combs's anticipates manual replenishment means here by disclosing the necessity of replenishing the quantity of chemical agents when needed/required by the system. When the apparatus of Combs runs low or runs out of the desired chemical agents, Combs teaches adding more of it to replenish the system, thus reading on applicant's claimed replenishing means.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita R. Patel whose telephone number is (571) 272-8701. The examiner can normally be reached on M-F: 8-5.

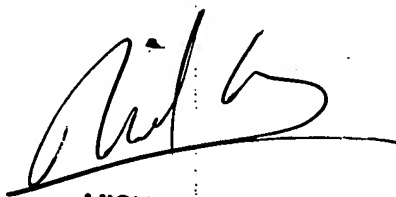
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



rrp



**MICHAEL BARR**  
SUPERVISORY PATENT EXAMINER